

Larry E. Craig, Chairman  
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No. 2

February 20, 1997

## **H.J.Res. 36 – Joint Resolution approving the President's finding with regard to international family planning**

Calendar No. 17

Approved by the House of Representatives on February 13, 1997, by a vote of 220 to 209, and placed on the Senate Calendar. No report. [S.J.Res. 14, nearly identical to H.J.Res. 36, is also on the Senate Calendar, No. 14.]

### **NOTEWORTHY**

- Pursuant to a unanimous consent agreement entered into on February 13, 1997, the Senate will begin consideration of H.J.Res. 36 on Monday, February 24, at 1:30 p.m., with two hours' debate, equally divided. The vote on H.J.Res. 36 will occur on Tuesday, February 25, at 2:15 p.m. No amendments are in order.
- H.J.Res. 36 is a resolution approving President Clinton's finding of January 31, 1997, that the limitation on obligations of international family planning funds imposed in the FY 1997 Omnibus Appropriations Bill (P.L. 104-208) is "having a negative impact on the proper functioning of the population planning program" administered by the Agency for International Development (AID).
- The operative legislative language of H.J.Res. 36 is identical to that of S.J.Res. 14, which was introduced by the Majority and Minority Leaders on February 4, 1997.
- Enactment of H.J.Res. 36 would make additional family planning funds in the amount of \$123.2 million available to AID during FY 1997. These additional funds, like the FY 1996 funds currently available, would not be subject to "Mexico City"-type restrictions, which deny family planning funds to foreign private organizations that use non-U.S.-government funds to perform abortions (except for rape, incest, or life of the mother), that violate foreign abortion laws, or that lobby for changes in foreign abortion laws. (Since 1973, the Helms Amendment to the Foreign Assistance Authorization Act has prohibited use of U.S. population funds to pay directly for abortion procedures.)
- This will be the first abortion-related vote in the Senate during the 105th Congress.

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## HIGHLIGHTS

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- The specific question at issue in consideration of H.J.Res. 36 is whether the release date for FY 1997 international population control funds will be March 1 or July 1, 1997, in addition to population funds that are already available to AID for population control.
- If H.J.Res. 36 is enacted — and the fund release date is moved up from July 1 to March 1 — these additional FY 1997 funds would become available on a monthly basis, at the rate of \$30.8 million per month, at the earlier date. This means that the additional FY 1997 funds would be available for the last seven months of FY 1997 (March through September) as opposed to just the last three months. A total of \$123.2 million would be available during the four additional months *if* H.J.Res. 36 is enacted.
- The funds at issue under H.J.Res. 36 are referred to as *additional* funds, because AID is already receiving FY 1996 funds in the amount of \$25.2 million per month for population control purposes. Whether or not H.J.Res. 36 is enacted — that is, whether or not the release date for the FY 1997 money is moved up from July 1 to March 1 — these FY 1996 amounts will continue through the balance of FY 1997.
- Whether or not the joint resolution is enacted, the additional FY 1997 money will still be subject to monthly disbursement, and will still be available after October 1, 1997, into FY 1998, until the funds are depleted.
- The House on February 13 also approved H.R. 581, the Smith/Oberstar/Hyde bill, by a vote of 231 to 194. H.R. 581 provides for *immediate* release of all FY 1997 family planning funds — subject to “Mexico City” limitations. If H.R. 581 were enacted, it would *not* affect the remaining FY 1996 money, which would continue to be released at the rate of \$25.2 million per month *without* Mexico City restrictions.
- The exact text of the joint resolution is specified in P.L. 104-208 (the FY 1997 Omnibus Appropriations Bill) and appears identically in the Senate (S.J.Res. 14) and House (H.J.Res. 36) resolutions. P.L. 104-208 further provides for expedited procedures for consideration of the joint resolution in both houses, both of which must vote on it by February 28 whether or not it has passed the other house. No amendments to the joint resolution are in order.
- The operative text of S.J.Res. 14 and H.J.Res. 36, as specified by P.L. 104-208, in its entirety, is as follows:

*“Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the House of Representatives and Senate approve the Presidential finding, submitted to the Congress on January 31, 1997, that the limitation on obligations imposed by section 518A(a) of the Foreign Operations, Export*

Financing, and Related Programs Appropriations Act, 1997, is having a negative impact on the proper functioning of the population planning program."

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## BACKGROUND

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### *The "Mexico City" Policy*

Based upon a declaration by the August 1984 United Nations International Conference on Population, held in Mexico City, that abortion "in no case should be promoted as a method of family planning . . .," President Reagan issued a directive that foreign private organizations, as a condition for eligibility to receive U.S. international family planning funds, must agree that they would not use their own funds to —

1. Lobby for repeal of laws restricting abortion in countries where such laws exist; or
2. Perform abortions in those countries.

These restrictions, known as the "Mexico City" policy, were accepted by hundreds of foreign organizations receiving U.S. population funds and resulted in no reduction in family planning spending; rather, the program grew substantially during the nine-year period the policy was in effect.

### *The Clinton Policy*

The Mexico City policy (which had continued in effect during the Bush Administration) was revoked by President Clinton two days after he took office in 1993. Throughout 1993 and 1994, with President Clinton's party in control of both houses of Congress, U.S. international family planning spending continued to grow without restrictions on the abortion activities of recipient organizations. This shift in policy was consistent with the Clinton Administration's view that legal restrictions on abortion — still the rule in Latin America, the Middle East, and in many Asian countries, with combined populations of some 2 billion people — should be eased or repealed; a Department of State cable, dated March 16, 1994, states the Administration's view that legal abortion is "a fundamental right of all women" [*Reuters*, 4/13/94]. Elaborating on the Clinton Administration's position, Vice President Gore stated that there is no "international right to an abortion" but that the legality of abortion should be "dealt with within the context of national laws, by each and every country" [*Washington Post*, 8/26/94; *Associated Press*, 9/4/94]. In short, the Clinton Administration was giving a virtual green light for country-by-country lobbying for abortion legalization by organizations receiving AID funds.

## ***The 104th Congress Attempts to Revive "Mexico City"***

With the beginning of the 104th Congress, and the loss of the majority in both houses by the President's party, the Mexico City policy again became a live policy issue. The House of Representatives repeatedly approved spending bills with variations on the Mexico City language but, with strong opposition by the Administration, these were not able to gain Senate approval. Likewise, Senate-passed bills without abortion restrictions were unable to clear the House.

The eventual result was an arrangement in which AID was given funds at levels reduced from the historic funding peak of \$582.7 million in FY 1995, subject to monthly *pro-rata* disbursements ("metering") but without any Mexico City-type language:

**P.L. 104-107** (part of the Balanced Budget Down Payment Act, signed into law on February 12, 1996). This legislation provided for \$378.75 million in FY 1996 funding for international family planning programs — 65 percent of FY 1995 spending levels — to be released at a rate of 6.67 percent (one-fifteenth) of the total funds appropriated per month beginning in July 1996 and continuing through September 1997. This works out to about \$25.2 million in FY 1996 money currently available to AID each month. Three months of these disbursements (totalling \$75.6 million) fell in FY 1996; the remaining 12 disbursements will total \$303 million by the end of FY 1997.

**P.L. 104-208** (part of the FY 1997 Omnibus Appropriations Bill, signed into law on September 30, 1996). In *addition* to the funds appropriated in P.L. 104-107, this legislation appropriates \$385 million for population activities beginning July 1, 1997, to be released at a rate of 8 percent of the total amount (i.e., \$30.8 million) per month. Thus, under P.L. 104-208, AID would receive during the last three months of FY 1997 (July through September) some \$92.4 million in family planning funds above the FY 1996 money already available. However, the same law also provides that if by February 1, 1997, the President finds that this limitation is having a negative impact on the population program, and if the Congress adopts a joint resolution approving his finding by February 28, 1997, then the FY 1997 money becomes available four months earlier, on March 1, 1997.

President Clinton submitted the specified finding on January 31, 1997. The finding was accompanied by an AID report ("The Impact of Delaying USAID Population Funding," January 1997) which concluded that consequence of a further delay in releasing funds "would be increased unintended pregnancies, more abortions, higher numbers of maternal and infant deaths, and, of course, more births" [page 3].

Proponents of the Mexico City policy contend that it is the Administration's refusal to accept abortion restrictions that has resulted in the delay in the release of funds, and that the abortion rate would rise more sharply if organizations promoting abortion were once again to be eligible for larger amounts of U.S. population funds. The Population Research Institute, a group supporting Mexico City restrictions, objected to the AID report, claiming it is based on "outdated population projections" and that reallocation of AID population control funds "to authentic

economic development would save the lives of thousands of women and children" ["Innocents Betrayed: A Side of Family Planning the White House Does Not Discuss," February 1997, p. 6].

If the joint resolution provided for by P.L. 104-208 is enacted, the FY 1997 funds for the four additional months (March through June) would be \$123.2 million – again, in addition to the \$25.2 million per month in FY 1996 funds already available through September, plus the \$30.8 million per month in FY 1997 funds available beginning July 1. The exact text of the joint resolution is specified in P.L. 104-208, and appears identically in the Senate (S.J.Res. 14) and House (H.J.Res. 36) resolutions. P.L. 104-208 further provides for expedited procedures for consideration of the joint resolution in both houses, both of which must vote on it by February 28 whether or not it has passed the other house; no amendments to the joint resolution are in order. The sole question at issue in the vote is whether the release date will be March 1 or July 1, 1997; whether or not the joint resolution is enacted, the money will still be subject to monthly metering, and will still be available after October 1, 1997, into FY 1998, until it is depleted.

### ***Alternative House Bill***

In addition to H.J.Res. 36, the House approved H.R. 581, the Smith/Oberstar/Hyde bill, which would *immediately* release the entire \$385 million appropriated by P.L. 104-208, without monthly metering, by a vote of 231 to 194. H.R. 581 would release these funds pursuant to Mexico City restrictions on performance of abortions and lobbying activities identical to those that were in force under the Reagan and Bush Administrations. At press time, it was unclear when H.R. 581 would be taken up by the Senate relative to action on H.J.Res. 36.

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## **ADMINISTRATION POSITION**

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A Statement of Administration Policy sent to the House on February 13 states that "the Administration strongly supports enactment of H.J.Res. 36." Attached was a statement from President Clinton released on January 31, 1997, which explained in part his reasons for supporting the earlier release date for the funds:

"If we delay support for family planning by even four months, denying safe and effective contraception to couples who depend on these programs, we will see a rise in unintended pregnancies and maternal deaths and a tragic recourse to unsafe and unsanitary methods to terminate those pregnancies. [ . . . ]

"I appeal to the Members of Congress to examine the consequences of a delay, to weigh those against the benefits of fulfilling an urgent and continuing American commitment, and to vote for the March 1, 1997, unconditional release of these voluntary international family planning funds."

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